IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8313 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DIPAKBHAI GOVINDBHAI ANANDJIWALA

Versus

GEB, THROUGH CHAIRMAN GEB

Appearance:

MR MURALI N DEVNANI for Petitioner

MR NK MAJMUDAR for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 22/12/2000

ORAL JUDGEMENT

The petitioner joined respondent-Board on 13.12.1967 and has continuously worked for more than 153 days i.e. for more than 120 days in six months as a work-charge Clerk. The service of the petitioner was made permanent with effect from 16.9.1968. It is the say

of the petitioner that pursuant to the settlement arrived at by the Board as well as Employees' Union and pursuant to the award of the Industrial Tribunal , it was resolved that person who has worked for more than 120 days within 6 months as well as 240 days in a year, his services to be considered as continuous and accordingly the benefits of revised salary was given to the petitioner after considering his representation made pursuant to the said settlement as well as award of the Industrial Tribunal. It is further the say of the petitioner that after verifying the representation made by the petitioner as well as period of service rendered by the petitioner as a workcharge clerk after considering the relevant circular No. 364 and 371, the respondent-Board has extended the benefits of revised pay scale vide order dated 8.12.1982. The petitioner has enjoyed benefits of the revised pay scale for nearly 17 years and after lapse of considerable period, the Board came forward with a case that the said benefits were wrongly given to the petitioner, and, therefore, on 4.9.99 a notice was issued to the petitioner demanding the return of Rs. 58,000/ from the petitioner. The petitioner was asked to make representation.

The petitioner in his reply dated 10.9.99 demanded documents stated therein. This petition is filed on an apprehension that the recovery shall be effected on the basis of the show-cause notice.

Learned counsel appearing for the petitioner invited my attention to the order passed in Special Civil Application No. 8311/1999 dated 24.8.2000 by this Court (Coram: S.K. Keshote, J.). In the said matter, the Board,in fact, passed an order whereby the benefits of revised pay scale given to the petitioner were taken back after 17 years. This Court was of the opinion that the order under challenge was cryptic order as the Board has not considered the reply to the show-cause notice filed by the petitioner. Under the circumstances, this Court observed that the order results in civil consequences and as such, principles of natural justice are to be followed. This Court further observed that merely giving of the show-cause notice does not fulfils all requisites of principles of natural justice. The reply filed to the show cause notice has to be considered and the order may not be as detailed as what the judicial order is,but reasons are to be recorded after considering the reply to the show cause notice in the order. In view of this, this Court set aside the order with a direction to the Board to take a fresh decision and to pass a fresh order after giving notice and an opportunity of hearing to the

petitioner. In the present case, no final decision is taken in the matter and it is at the notice stage. The only direction that can be given in the present case is to direct the Board to give reasonable opportunity to the petitioner, so that he can file proper reply to the show cause notice. The petitioner in his reply dated 10.9.99 demanded certain documents, I am sure the Board will consider the relevancy of the said documents and will take appropriate decision in the matter. In any case, the Board will pass final order after following the principles of natural justice and after hearing the petitioner. In view of this observation, the petition is disposed of. Rule made absolute with no order as to costs.

(K. R. VYAS, J.)
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